

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD
SPECIAL CIVIL APPLICATION No. 6518 of 2002

For Approval and Signature:

HONOURABLE MR.JUSTICE AKIL KURESHI

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- 1 Whether Reporters of Local Papers may be allowed to see the judgment ?
 - 2 To be referred to the Reporter or not ?
 - 3 Whether their Lordships wish to see the fair copy of the judgment ?
 - 4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?
 - 5 Whether it is to be circulated to the civil judge ?

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BM PALAN - Petitioner(s)
Versus
STATE OF GUJARAT & 3 - Respondent(s)

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Appearance :

MS PAURAMI B SHETH for Petitioner(s) : 1,
MR SIRAJ GORI AGP for Respondent(s) : 1 - 2.
RULE NOT RECD BACK for Respondent(s) : 1 - 4.

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CORAM : HONOURABLE MR.JUSTICE AKIL KURESHI

Date : 23/06/2006

ORAL JUDGMENT

1. Learned advocate Shri Mehta submits that learned advocate Ms. P.B.Sheth have been appointed as Asst. Government Pleader and can no longer appear in this

petition. He submits that he appears for the petitioner in place of earlier learned counsel.

2. I have heard learned advocates appearing for the parties. The petitioner was a government employee discharging his duties as a medical officer. He desired to opt for voluntary retirement. He, therefore, issued a notice on 13th March, 1995 seeking voluntary retirement w.e.f. 15th June, 1995. His request was accepted by the competent authority by order dated 15/6/1995. Pursuant to the order dated 15/6/1995 the petitioner was also relieved from service. In the order accepting notice of voluntary retirement, however, there were certain conditions which the petitioner had to fulfill. Importantly he was required to repay all government dues with interest immediately. The petitioner himself has stated that he had availed of house building allowance (in short HBA) and also a vehicle loan. Admittedly, the petitioner had not repaid fully these loans obtained by him from the government. The petitioner has stated that he repaid the entire HBA with interest on 17/2/1997. This is also indicated in the letter dated 19/1/1998 issued by respondent no.4. Likewise, the petitioner repaid the vehicle loan fully by 8th May, 1998. This is

also indicated in the letter dated 14/5/1998 issued by respondent no.4. Respondent no.4, therefore, requested respondent no.3 to issue no due certificate and no due certificate was also issued by the authorities on 27/5/1998. It thus appears that the petitioner had discharged all his liabilities latest by May, 1998. Atleast thereafter the case of the petitioner for releasing the petitioner's pensionary benefits should have been taken up promptly. However, the petitioner was paid pension only on 3rd August, 2001 i.e. more than three years after the petitioner paid off all his dues. Thus there has been considered delay in releasing the pensionary benefits of the petitioner even considering the last date on which the petitioner had discharged his liabilities.

3. In view of the above factual background the petitioner has approached this Court seeking interest on delayed payment of pension. Primarily the petitioner seeks interest on delayed payment of pension from the date of retirement till its actual payment i.e. for period from 15/6/1995 to 3rd August, 2001. In the alternative the petitioner has also prayed for interest for the period between 15/5/1998 (when he had discharged

last of his liabilities) to 3rd August, 2001 when the payment was actually made.

4. The State Government has appeared in response to the notice issued by this Court and filed affidavit in reply. On the basis of the affidavit in reply learned AGP Shri Gori pointed out that after the petitioner discharged his liabilities of repayment of loans his case was taken up for finalisation of pension. He submitted that unless and until the petitioner pays all the dues it is not possible to process his case for pensionary benefits. He further pointed out that there were certain objections raised by the accounts section and upon fulfillment of the objections and queries the pension was finalised and released.

5. Facts are not much in dispute. The petitioner sought permission and was granted such permission to retire on voluntary retirement basis w.e.f. 15/6/1995. One of the conditions of the voluntary retirement order was he must pay the government dues with interest immediately. The petitioner himself discharged such liabilities by 15th May, 1998. His request for granting interest for the period prior to the said date,

therefore, cannot be accepted. Nevertheless once the petitioner discharged his liabilities it was incumbent upon the government to take up his case for finalisation and releasing of pensionary benefits promptly. More than three years passed before the pension was actually released. Whatever the internal correspondence and administrative delay, the petitioner cannot suffer that too for such a long period of time. At no stage the respondents have come out of the case that after August, 1998 there was any delay on the part of the petitioner which delayed finalisation of his pension. The respondents, therefore, must bear the burden of interest on the delayed pension.

6. Considering the facts of the case, it is directed that the petitioner shall receive interest on the delayed payment of pension from 1st September, 1998 till 3rd August, 2001. Such interest will be at the rate of 10% simple interest p.a. considering the period during which the delay had occurred.

7. These directions will be complied within a period of eight weeks from the date of receipt of a copy of this order. With these directions, petition is disposed of.

Rule made absolute to the above extent. No costs.

(Akil Kureshi, J.)

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